

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

ROBERT BOLDEN, SR.,

Movant,

v.

UNITED STATES OF AMERICA

Respondent.

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No. 4:10-cv-2288

Judge Jackson

CAPITAL CASE

**PETITIONER’S EX PARTE MOTION FOR AN ORDER DIRECTING THE BUREAU OF PRISONS TO
PERMIT DR. RICHARD DUDLEY TO CONDUCT AN EVALUATION OF MR. BOLDEN**

Petitioner, Robert Bolden, through undersigned counsel, hereby moves this Court for an order directing the Bureau of Prisons to permit Dr. Richard Dudley to conduct an evaluation of Mr. Bolden, and in support thereof, states the following:

1. Petitioner is currently incarcerated following his convictions and sentence of death in United States v. Bolden, 4:02-cr-00557 (E.D. Mo.). On December 16, 2009, this Court appointed undersigned counsel to represent Petitioner in his proceedings under 28 U.S.C. § 2255. Id., Doc. 544.

2. On March 21, 2016, this Court entered an Order (Doc. 231) and Memorandum (Doc. 230), denying Petitioner’s 2255 Motion without an evidentiary hearing and denying a certificate of appealability.

3. On April 18, 2016, Petitioner filed his *Motion and Memorandum in Support of Motion to Alter or Amend the Court’s Judgment of March 21, 2016* (Docs. 233, 234), his *Motion to Amend his Motion to Vacate, Set Aside or Correct the Judgment and Sentence Pursuant to 28 U.S.C. § 2255 in Light of Johnson v. United States*, 135 S. Ct. 2551 (2015) and *Memorandum in Support* (Doc. 235), and his *Amendment to Motion to Vacate, Set Aside or Correct the Judgment*

and Sentence Pursuant to 28 U.S.C. § 2255 in Light of Johnson v. United States, 135 S. Ct. 2551 (2015) (Doc. 236).

4. On June 29, 2016, the government filed a *Motion for Leave to Transfer Petitioner to Another Institution* (Doc. 240). On July 1, 2016, the government filed its Response to Petitioner's motions (Doc. 241). On July 7, 2016, this Court granted the government's *Motion for Leave to Transfer Petitioner to Another Institution*. Doc. 242.

5. As described in prior submissions, as a result of a recent medical emergency that included kidney failure and placement on dialysis, Mr. Bolden's medical care level was changed to Care Level 4 and he was transferred to Springfield MCFP on July 1, 2016. *See* Doc. 243. Also as described previously, although nothing has changed about Petitioner's custody status except for his need for dialysis, the new institution is housing Mr. Bolden in complete isolation and severely limiting his human interaction. *Id.*

6. In light of his deteriorating health and other considerations arising from Mr. Bolden's case, counsel are investigating and developing expert evidence in support of a possible clemency application.

7. In order to develop this evidence, it is necessary for Dr. Richard Dudley, Jr., to conduct a psychiatric evaluation of Mr. Bolden at MCFP Springfield. The nature of this evaluation will require a contact visit with Mr. Bolden in a private, well-lit room, without noise distractions.¹

8. Dr. Dudley is available to conduct that evaluation on September 6 or 7, 2016. Counsel have been informed that a Court Order is required to schedule this evaluation.

¹ The Federal Public Defender of the Middle District of Pennsylvania Capital Habeas Unit will be responsible for the expenses involved in sending Dr. Dudley to MCFP Springfield for purposes of conducting this evaluation.

Accordingly, Mr. Bolden respectfully requests that this Court issue the attached order directing the institution to permit Dr. Dudley to conduct the necessary evaluation.

WHEREFORE, Petitioner respectfully requests that this Court grant his motion for an order directing the Bureau of Prisons to permit Dr. Dudley to conduct an evaluation of Mr. Bolden.

Respectfully submitted,

/s/ ANNE L. SAUNDERS

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Dated: August 23, 2016

CERTIFICATE OF SERVICE

I, Anne Saunders, hereby certify that on this date I caused the foregoing document to be served on the following person at the location and in the manner indicated below, which satisfies the requirements of the Federal Rules of Civil Procedure:

Via email and First class mail, postage prepaid

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Dated: August 23, 2016